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Testimony of Matthew Cholewa, Legislative Liaison and Executive Committee Member
Real Property Section of the Connecticut Bar Association
Senate Bill 436 An Act Concerning Municipal Revenue
Finance Revenue and Bonding Committee
March 15, 2010

Senator Daily, Representative Staples, and members of the Finance Revenue and Bonding Committee, thank you for the opportunity to appear and comment in **opposition** to Senate Bill 436, *An Act Concerning Municipal Revenue*. My name is Matthew Cholewa and I am the Legislative Liaison and a member of the Executive Committee of the Connecticut Bar Association Real Property Section. The section has a great interest in legislation that concerns land records in general and the recording costs of documents on land records in particular. The Real Property Section of the Connecticut Bar Association **opposes passage of Senate Bill 436**, and respectfully requests that the committee **take no action on the bill as currently drafted**.

Among other things, the bill would authorize municipalities to add a surcharge to fees it already charges for services, including a surcharge to the fee for recording documents on the land records.

We oppose this bill for two reasons. One, for the lack of uniformity it would create in recording costs in Connecticut. Two, for the increase in costs it would create. In most states, land registries are organized on the county level. Connecticut is unique (except possibly for Vermont) in that each town has its own land records, resulting in 169 separate recording jurisdictions. Although out of state lenders and others find this confusing, fortunately, recording fees have always been uniform and predictable. Recording a 20 page document in New Haven costs exactly the same amount as recording a 20 page document in Westbrook. Senate Bill 436 would change that.

If approved, municipalities could assess a surcharge on recording fees in an amount that "shall not exceed the costs to the municipality to provide the service for which the fee is assessed...." The result could be chaotic for towns, real estate attorneys, financial institutions and other users of land records. The cost of recording documents could be different in all 169 towns as each town's cost to provide the service to record on its land records would depend on variable factors, such as the salaries and benefits it pays its town clerk, assistant town clerks, the printer and binder of its land records, etc. Such a surcharge could also change any time the cost of providing the service changes, such as with staffing changes or the purchase of new equipment. It has been difficult enough for the industry to deal with the three increases in recording costs in the past decade. One hundred sixty nine, or more, changes would be chaotic.

Such a system would also add more work for town clerks who undoubtedly will field a barrage of constant calls and emails from parties needing to know what the town's recording fees are at any particular point in time.

In addition, allowing a municipality to add a surcharge to recording fees would increase what are arguably excessive costs to record. Ten years ago, the cost of recording the first page of a document was \$10. Five years ago, the cost to record the first page increased to \$13. In 2005, a \$30 surcharge was added, bringing the cost to \$43. Last year, an additional \$10 was added to the cost, raising the charge to \$53, a 530% increase in only ten years. Unlike other taxes and fees, individuals and financial institutions cannot simply make a choice not to record a document to avoid paying higher recording fees. Recording in many cases is compulsory. Allowing municipalities to add a surcharge to recording fees will further drive up the costs of real estate closings, refinances, and foreclosures, all of which require multiple documents to be recorded. The CBA Real Property Section urges this committee to consider the recent and significant increases to recording fees and respectfully submits that it is not appropriate to increase these particular fees again.

Should the committee decided to approve this bill, the section suggests that the committee consider approving it with substitute language as follows:

In line 88, after the word “service” insert “except for those fees set forth in section 7-34a of the general statutes,”

The substitute language above would clarify that municipalities would not have the authority to add a surcharge to recording fees.

In conclusion, the CBA Real Property Section respectfully urges the committee to **take no action** on Senate Bill 436 as currently drafted. Alternatively, the section urges the committee to amend the bill as set forth above before it considers any action to favorably report it.

Thank you for the opportunity to appear and testify on this matter. I would be pleased to answer any questions that you may have.